

matching of the beveled recess formed in the first edge face, said recess being defined by a projecting second flange the length of which is greater than that of the first flange, such that the joining of two like panel pieces results in an elongate space which demarcates one piece from another.

Cancel Claims 22-25.

REMARKS

Claims 1-25 are in this application. No claims have been allowed; however, Claims 17-21 are said to contain allowable subject matter and they would be in condition for allowance if the informalities rejection were overcome (35 USC 112, second paragraph).

It is requested that this Amendment be entered because it avoids the Final Rejection and places all claims in condition for allowance.

If this Amendment does not place the application in condition for allowance, it is requested that it be entered for purposes of appeal because, in the very least, it overcomes the rejection of Claims 17-21 on indefiniteness (35 USC 112) and reduces the issues on appeal.

A Notice of Appeal is being simultaneously filed.

AMENDMENTS

The specification has been amended at page 16 to identify the disclosed flanges as a "first" flange and "second" flange. These flanges are shown in Figure 11 as items 158 and 162, respectively.

Antecedent basis for a first flange and second flange can also be found in the text in the paragraphs bridging pages 15 and 16, specifically, page 15, line 23 and page 16, lines 6 and 8.

The specification has also been amended at page 16, line 14, to include a reference to the "bottom side" of flange 158. This "bottom side" appears in corrected Figure 12 as item "164." This correction is covered by a letter to the Draftsperson which has been simultaneously filed; it is shown in red in an attached copy of Figure 12.

'Informalities' Rejection; Section 112

Claim 17-21 are rejected as indefinite because they refer to a "front side" and "rear side" (Claims 17 and 18) which is said to be inconsistent with the panel piece shown in the Drawings. Specifically, the Examiner questions "how there can exist a beveled recess that extends from the "front side" to the "rear side" of the panel, while at the same time there is a projecting flange of which the recess is defined by" (Official Action, page 2, last paragraph).

This Amendment would cure the confusion by deleting from Claim 17 and Claim 18 any and all reference to "front side" and "rear side."

The novelty in applicant's panel piece lies in its beveled recess and two projecting flanges, the second of which is greater in length than the first so that when the pieces are fitted together, an elongate space is inherently formed. This elongate space demarcates one adjoining panel piece from the other.

This Amendment merely clarifies the mating of the panel pieces. It avoids all reference to a "front side" and "rear side" and, instead, defines the panel pieces in terms of the beveled recess and the elongate space which results when the pieces are assembled. Antecedent basis for this amendment can be found in the paragraphs bridging pages 15 (beginning with line 13) and 16 (ending with line 22). Additional support can also be found in the Drawings, Figures 11 and 12.

Claim Rejection; 35 USC 102

Claims 1-3 and 8-14 are rejected as being anticipated by Dail [Section 102(b)]. Dail is said to show these features of applicant's panel piece:

1. Front and rear sides;
2. Opposing side faces;
3. Opposing edge faces;
4. An elongate projection extending from one edge face of a panel piece;
5. An elongate recess extending from the opposing edge face of the panel piece; the recess being of greater depth than the length of the projection; and

6. An open space between pairs of panel pieces.

In Dail, the open space is item 28 (Figure 3) and it contains within space 28 a "V-shaped reinforcing strip" 30.

In applicant's prior amendment, it was argued that the open space in Dail is not truly 'open' because it includes a "reinforcing strip" 30; however, the Examiner has held that an "open space" can be open even if it includes a "reinforcing strip". The rationale for this is that the reinforcing strip takes up only some of the 'open space', not all of it, so that strictly speaking there is still some 'opening' between the joined panels.

In reply, the undersigned proposes, by this Amendment, to substitute 'empty' for "open" in independent Claims 1, 2, 12 and 13. An 'empty space' is critical to applicant's invention. It is needed so that one panel piece can engage the rear leg and shoulder of the panel piece to which it is joined. This engaging contact avoids the cantilever force effect associated with prior art assemblies and, instead, it transfers the exerted force onto the rear leg and shoulder of the adjoined panel piece. As a result, there is created a shear force which is distributed evenly along the length of flange 36 and shoulder 38 (Figure 3).

'Anticipation' requires identity of invention, that is, the invention claimed must be the same as that of the reference, and the present Amendment avoids this rejection because there is no "empty space" between the panel pieces of Dail. Absent any such 'empty space', the rejection on Dail is improper and should be dropped.

Also, in Dail the panel pieces are joined horizontally to construct a ceiling and the weight of the panels is borne entirely by furring strips shown as 20 in Figure 1.

By contrast, applicant's panel pieces are used to create wall assemblies. The panel pieces are disposed one above the other and the weight of each panel piece is cumulative so that a panel piece at the bottom of a wall bears appreciably more weight than a panel piece at the top.

Accordingly, applicant's invention overcomes a problem which Dail did not even envision because the latter relates to a type of constructing in which the effects of cantilever force is not a problem.

Regarding Claim 12: Dail shows, in Figure 3, a space between adjoining panel pieces; however, the space formed is taken up in large part by a reinforcing strip 30.

By contrast, applicant's Claim 12, as amended, contains no such reinforcing strip and the space between the joined panel pieces is "empty space." Absent such an "empty space", the rejection on Dail should be dropped.

Regarding Claims 2, 3, 13 and 14: these claims describe joined panel pieces that are secured to a support structure. Dail shows panel pieces joined to furring strips to create a ceiling; however, there is no 'empty space' between the joined panels. An 'empty space' is critical to applicant's invention and, absent such a teaching, the rejection on the ground of anticipation should be withdrawn.

Claim Rejection; 35 USC 103

Claims 4-7, 15, 16 and 22-25 are rejected as being unpatentable over Dail on the ground of 'obviousness'.

Claims 4-7, 15 and 16 are dependent on claims (Claims 2 and 13) which applicant has already shown to be distinguishable over Dail (supra). Those arguments apply equally to this rejection and they are incorporated herein by reference.

Claims 4-7, 15, 16 and 22-25 provide scope to applicant's invention. They cover features which, if claimed independently, would be obvious to those skilled in the art. Claims 4 and 15, for example, recite an elevator wall as a support structure for applicant's panel pieces. Claims 6, 7 and 16 provide for screws and adhesives as a means for securing panel pieces to an elevator wall. These are not patentable features *per se*; however, they have never been employed in applicant's novel assembly as claimed; an assembly which has been shown to be patentable over the cited prior art (Dail).

The courts have consistently held that an applicant has a right to submit claims which cover obvious features so long as those claims are dependent upon an allowable claim. *In re McCam*, 212 F.2d 797, 101 USPQ 411,413 (CCPA, 1954). Applicant has done no more than this.

The fact that these claims are dependent on an allowable claim makes them allowable too because there is incorporated into each dependent claim those features which make the independent claims patentable over the cited art.

The rejection of method Claims 22-25 is moot because those claims have been cancelled.

For these reasons, it is requested that the rejection be dropped and this application passed to issue; however, if the Examiner should find that any issue remains, he is requested please to phone the undersigned so as to expedite the allowance procedure and avoid the necessity for filing the Brief on Appeal.

Respectfully submitted,

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Enclosures: Notice of Appeal
Certification



1.121 AMENDMENT CHANGES

A panel piece comprised of a front side, a rear side, a pair of opposing side faces and a pair of opposing edge faces for interlockingly engaging the edge faces of a like panel;

one edge face of said pair of opposing edge faces including an elongate projection with an end termination and,

a remaining edge face of said pair of opposing edge faces comprising an elongate recess including a bottom surface for receiving said projection;

said recess being of greater depth than the length of said projection, such that when the panel is joined to a like panel said elongate projection end termination does not contact said elongate recess bottom surface, leaving an empty space therebetween, to afford a demarcation line in the form of an elongate space which extends inwardly from the respective ends of each opposing side face.

2. A panel assembly comprised of a plurality of like panel pieces joined to one another in matching engagement and secured to a support structure, each piece consisting essentially of a front side, a rear side, a pair of opposing side faces and a pair of opposing edge faces for interlockingly engaging the edge faces of a like panel, wherein each panel piece is formed such that

one edge face of said pair of opposing edge faces including an elongate projection with an end termination and,

a remaining edge face of said pair of opposing edge faces comprising an elongate recess including a bottom surface for receiving said projection;

said recess being of greater depth than the length of said projection, such that when the panel is joined to a like panel said elongate projection end termination does not contact said elongate recess bottom surface, leaving an empty space therebetween, to afford a demarcation line in the form of an elongate space which extends inwardly from the respective ends of each opposing side face.

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12. A panel piece comprised of a front side, a rear side and a pair of opposing edge faces for interlockingly engaging the edge faces of a like panel, said panel piece comprising

a first edge face of said pair of opposing edge faces being formed as a tongue between a front edge flange and a rear edge flange;

a second edge face of said pair of opposing edge faces being formed as a groove comprised of a rear leg, a front leg and a base member, said rear leg being greater in length than said front leg;

said tongue being insertable within said groove, the depth of said groove along the rear leg being greater than the length of said tongue, so that in their assembled mode the rear edge flange of said first edge faces rests upon said rear leg of said second edge face so as to form an empty space between the tongue end and the base of the groove.

13. A panel assembly comprised of a plurality of like-panel pieces joined to one another in matching engagement and secured to a support structure, each panel piece consisting essentially of a front side, a rear side and a pair of opposing edge faces for interlockingly engaging the edge faces of a like panel, wherein each panel piece is formed as comprising

a first edge face of said pair of opposing edge faces being formed as a tongue between a front edge flange and a rear edge flange;

a second edge face of said pair of opposing edge faces being formed as a groove comprised of a rear leg, a front leg and a base member, said rear leg being greater in length than said front leg;

said tongue being insertable within said groove, the depth of said groove along the rear leg being greater than the length of said tongue, so that in their assembled mode the rear edge flange of said first edge faces rests upon said rear leg of said second edge face so as to form an empty space between the tongue end and the base of the groove.

17. A panel piece for constructing a paneled assembly made up of any number of such panel pieces disposed atop one another, said panel piece comprising:

a front side and a rear side;

two opposing edge faces, one edge face being formed with a beveled recess defined by a projecting first flange;

a second edge face, also with a beveled recess, which is matching of the beveled recess formed in the first edge face, said recess being defined by a projecting second flange the length of which is greater than that of the first flange such that the joining of two like panel pieces results in an elongate space which demarcates one piece from another.

18. A panel assembly comprised of a plurality of like panel pieces joined to one another in matching engagement and secured to a support structure, each panel piece comprising:

a front side and a rear side;

two opposing edge faces, one edge face being formed with a beveled recess defined by a projecting first flange;

a second edge face, also with a beveled recess, which is matching of the beveled recess formed in the first edge face, said recess being defined by a projecting second flange the length of which is greater than that of the first flange, such that the joining of two like panel pieces results in an elongate space which demarcates one piece from another.